



AN ACT GENERALLY REVISING STATE AND LOCAL GOVERNMENT LAWS RELATED TO FINANCE; REVISING NOTICE INFORMATION IN CONNECTION WITH INTENTION TO CREATE A RURAL SPECIAL IMPROVEMENT DISTRICT; REVISING PROTEST PROVISIONS FOR THE CREATION OR EXTENSION OF A RURAL SPECIAL IMPROVEMENT DISTRICT; ALTERING THE TIME FOR CANVASSING OF VOTES FOR WATER AND SEWER DISTRICT ELECTIONS; CLARIFYING CHARGES FOR SERVICES; CLARIFYING THE LEVY OF DISTRICT WATER OR SEWER TAX TO PAY EXPENSES OF OR CLAIMS AGAINST THE DISTRICT; REMOVING CONDITIONS PLACED ON STATE REFUNDING BONDS; CLARIFYING THE ACCOUNTS FOR DEPOSIT OF PROCEEDS OF, AND THE USE OF BOND PREMIUMS ON, STATE GENERAL OBLIGATION BONDS; REMOVING THE REQUIREMENT THAT REVISED MUNICIPAL UTILITY RATE SCHEDULES BE FILED WITH THE PUBLIC SERVICE COMMISSION; EXTENDING THE MAXIMUM TERM OF LOAN UNDER WATER POLLUTION CONTROL STATE REVOLVING FUND PROGRAM IN CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 7-12-2103, 7-12-2105, 7-12-2109, 7-12-2112, 7-13-2256, 7-13-2301, 7-13-2302, 17-5-305, 17-5-803, 69-7-112, AND 75-5-1113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-12-2103, MCA, is amended to read:

**"7-12-2103. Resolution of intention to create rural improvement district.** (1) Before creating a special improvement district for the purpose of making any of the improvements or acquiring any private property for any purpose authorized by this part, the board of county commissioners shall pass a resolution of intention.

(2) The resolution must:

- (a) designate the number of the district;
- (b) describe the boundaries of the district;
- (c) state in the resolution the general character of the improvements that are to be made;
- (d) designate the name of the engineer who is to have charge of the work and an approximate estimate

of the cost of the work; and

(e) specify the method or methods by which the costs of the improvements will be assessed against property in the district; and

~~(f) if applicable, provide any additional information required to be included in the notice under 7-12-2105(3)(a).~~

(3) The board of county commissioners may include, in one proceeding under one resolution of intention and in one contract, any of the different kinds of improvements or work provided for in this part and may include any number of streets and rights-of-way or portions of streets and rights-of-way, and it may exempt any of the work already done upon a street to the official grade."

**Section 2.** Section 7-12-2105, MCA, is amended to read:

**"7-12-2105. Notice of resolution of intention to create district -- hearing -- exception.** (1) Upon ~~having passed the passage of a~~ resolution of intention pursuant to 7-12-2103, the board of county commissioners shall publish notice of the passage of the resolution of intention as provided in 7-1-2121.

(2) A copy of the notice must be mailed, as provided in 7-1-2122, to each person, firm, or corporation or the agent of the person, firm, or corporation owning real property within the proposed district listed in the owner's name upon the last-completed assessment roll for state, county, and school district taxes.

(3) (a) The notice must describe the general character of the ~~improvement or~~ improvements proposed to be made or acquired by purchase, state the estimated cost of the improvements, describe generally the method or methods by which the costs of the improvements will be assessed, and designate the time when and the place where the board will hear and pass upon all protests that may be made against the making or maintenance of the improvements or the creation of the district. ~~If one or more of the improvements proposed to be made or acquired by purchase are related to each other or are part of a larger project, the notice must describe the entire scope of the related or larger project, including the estimated costs of all related improvements, the method or methods by which these costs will be assessed, the impacts on property rights, and other actual or potential costs reasonably related to the proposed improvement.~~

(b) If the revolving fund is to be pledged to secure the payment of bonds and warrants, the notice must include a statement that, subject to the limitations in 7-12-2182:

- (i) the county general fund may be used to provide loans to the revolving fund; or
- (ii) a general tax levy may be imposed on all taxable property in the county to meet the financial

requirements of the revolving fund.

(c) The notice must refer to the resolution on file in the office of the county clerk for the description of the boundaries. If the proposal is for the purchase of an existing improvement, the notice must state the exact purchase price of the existing improvement.

(4) The provisions of this section do not apply to a resolution of intention to create a district that is passed upon receipt of a petition as provided in 7-12-2102(2)."

**Section 3.** Section 7-12-2109, MCA, is amended to read:

**"7-12-2109. Right to protest creation or extension of district -- exception.** (1) (a) Except as provided in subsections (1)(b) and (2), at any time within 30 days after the date of the first publication of the notice of the passage of the resolution of intention, any owner of property liable to be assessed for the work proposed in the resolution may make written protest against the proposed work or against the creation or extension of the district to be assessed, or both. The protest must be in writing, and identify the property in the district owned by the protestor, and except as provided in 7-12-2141, be signed by all owners of the property. The protest must be delivered to the county clerk, who shall endorse on the protest document the date of its receipt by the county clerk.

(b) If the period described in subsection (1)(a) includes a holiday as enumerated in 1-1-216, other than a Sunday, the period must be extended for an additional 2 days.

(2) The provisions of subsection (1)(a) do not apply if a resolution of intention to create the district is a result of a petition submitted as provided in 7-12-2102(2).

(3) (a) For purposes of this section, "owner" means, as of the date a protest is filed, the record owner of fee simple title to the property.

(b) The term does not include a tenant of or other holder of a leasehold interest in the property."

**Section 4.** Section 7-12-2112, MCA, is amended to read:

**"7-12-2112. Sufficient protest to bar proceedings -- exception.** (1) Except as provided in subsection (2), further proceedings may not be taken for a period of 6 months from the date when a protest was received by the county clerk if the board of county commissioners finds that the protest is made by:

~~\_\_\_\_\_ (a) the owners of property within the proposed district having projected assessments, when aggregated,~~

~~representing not less than 50% of the total projected assessments for property within the district; the owners of property in the proposed district to be assessed for more than 50% of the cost of the proposed program or improvements as determined by the method or methods of assessment described in the resolution of intention~~

~~—— (b) the owners of property within the proposed district having a taxable valuation, when aggregated, representing not less than 50% of the total taxable valuation of the property within the district; or~~

~~—— (c) not less than 50% of the owners of property within the district.~~

(2) If the improvements are the construction of sanitary sewers, the protests may be overruled by a unanimous vote of the board if:

(a) the improvements are ordered by the department of environmental quality or the federal environmental protection agency; or

(b) the governing body makes written findings after a public hearing and public comment, based on evidence in the record, that the proposed improvements protect public health or the environment, mitigate harm to the public health or environment, and are achievable under current technology."

**Section 5.** Section 7-13-2256, MCA, is amended to read:

**"7-13-2256. Canvass of vote.** (1) ~~The~~ Except as provided in part 23 and this part, the board of county commissioners shall canvass the returns of the first election, and ~~thereafter, except as provided in this part and part 23~~ for subsequent elections, the board of directors shall meet as a canvassing board and ~~duly~~ canvass the returns ~~within 4 days~~ at the first regular meeting of the board of directors after any district election, including any district bond election.

(2) If the district lies in more than one county, the board of county commissioners whose county contains the largest percentage of the territory of ~~said~~ the district shall canvass the returns of the first election."

**Section 6.** Section 7-13-2301, MCA, is amended to read:

**"7-13-2301. Establishment of charges for services -- payment of charges.** (1) The board of directors shall fix all water and sewer rates and shall, through the general manager, collect the sewer charges and the charges for the sale and distribution of water to all users.

(2) (a) The board, in furnishing water, sewer service, other services, and facilities, shall review, at least once every ~~2 years~~ year, and ~~from time to time fix set, as required,~~ the rate, fee, toll, rent, tax, or other charge

for the services, facilities, and benefits directly afforded by the facilities, taking into account services provided and direct benefits received, ~~that will~~ Taking into account the collections of any special assessments levied pursuant to 7-13-2280 through 7-13-2290 and any property taxes that will be levied to pay debt service on general obligation bonds authorized pursuant to 7-13-2331, the amount to be collected and appropriated must be sufficient in each year to provide income and revenue adequate, with the collections of any special assessments levied pursuant to 7-13-2280 through 7-13-2289 and appropriated, for the:

- ~~(a)~~(i) the payment of the reasonable expense of operation and maintenance of the facilities;
- ~~(b)~~(ii) administration of the district;
- ~~(c)~~(iii) the payment of principal and interest on any bonded or other indebtedness of the district; and
- ~~(d)~~(iv) the establishment or maintenance of any required reserves, including reserves needed for

expenditures for depreciation and replacement of facilities, as may be determined necessary from time to time by the board or as covenanted in the ordinance or resolution authorizing the outstanding bonds of the district.

(b) A portion of the rate, fee, toll, rent, tax, or other charge provided for in subsection (2)(a) may be charged to the owner of an undeveloped lot, tract, or parcel to pay a share of the principal of and interest on bonded indebtedness issued to finance the capital cost of improvements to an existing water or sewer system, so long as the board makes findings in a resolution or ordinance of the district that demonstrate the improvements to the existing system to be financed by the bonded indebtedness confer a direct benefit on the lot, tract, or parcel.

~~(3)~~(3) A person or entity may not use any facility without paying the rate established for the facility. In the event of nonpayment, the board may order the discontinuance of water or sewer service, or both, to the property and may require that all delinquent charges, interest, penalties, and deposits be paid before restoration of the service.

~~(4)~~(4) (a) If the board has ordered discontinuance of service as provided in subsection ~~(3)~~ (3) and the person or entity who received the service has not made full payment of all delinquent charges, interest, penalties, and deposits, then a district may elect to have its delinquent charges for water or sewer services collected as a tax against the property by following the procedures of this subsection ~~(4)~~ (4). If a charge for services is due and payable in a fiscal year and is not paid by the end of the fiscal year, the general manager shall, by July 15 of the succeeding fiscal year, give notice to the owners of the property to which the service was provided. The notice must be in writing and:

- (i) must specify the charges owed, including any interest and penalty;
- (ii) must specify that the amount due must be paid by August 15 or it will be levied as a tax against the property;
- (iii) must state that the district may institute suit in any court of competent jurisdiction to recover the amount due; and
- (iv) may be served on the owner personally or by letter addressed to the post-office address of the owner as recorded in the county assessor's office.

(b) On September 1 of each year, the general manager shall certify and file with the county assessor a list of all property, including legal descriptions, on which arrearages remain unpaid. The list must include the amount of each arrearage, including interest and penalty. The county assessor shall assess the amount owed as a tax against each lot or parcel with an arrearage. If the property on which arrearages remain unpaid contains a mobile home, the amount owed must be assessed as a tax against the owner of the mobile home. If the mobile home for which arrearages remain unpaid is no longer on the property, the amount owed must be assessed as a tax against the property.

~~(5)(6)(5)~~ In addition to collecting delinquent charges in the same manner as a tax, a district may bring suit in any court of competent jurisdiction to collect amounts due as a debt owed to the district.

~~(6)(7)(6)~~ Notwithstanding any other section of part 22 or this part or any limitation imposed in part 22 or this part, when the board has applied for and received from the federal government any money for the construction, operation, and maintenance of facilities, the board may adopt a system of charges and rates to require that each recipient of facility services pays its proportionate share of the costs of operation, maintenance, and replacement and may require industrial users of facilities to pay the portion of the cost of construction of the facilities that is allocable to the treatment of that industrial user's wastes."

**Section 7.** Section 7-13-2302, MCA, is amended to read:

**"7-13-2302. Levy of taxes to meet bond obligations and other expenses.** (1) If for any reason the revenue of the district is inadequate to pay the interest or principal of any bonded debt as it becomes due, exclusive of revenue or special assessment bonded indebtedness incurred pursuant to 7-13-2333 or bonded indebtedness incurred to refund the revenue or special assessment bonded indebtedness without authorization at an election, or any other expenses or claims against the district, then the board of directors shall, at least 15

days before the first day of the month in which the board of county commissioners of the county, city and county, or counties in which the district is located are required by law to levy the amount of taxes required for county or city and county purposes, furnish to the board or boards of county commissioners and to the auditor or auditors, respectively, an estimate in writing:

(a) of the amount of money required by the district for the payment of the principal of or interest on any bonded debt as it becomes due;

(b) of the amount of money required to establish reasonable reserve funds for either purpose, together with a description of the lands benefited by the bonds, as stated by the board of directors in the resolution declaring the necessity to incur bonded indebtedness; and

(c) of the amount of money required by the district for any other purpose set forth in this section.

(2) The board of county commissioners of the county or city and county, annually, at the time and in the manner of levying other county or city and county taxes, shall:

(a) until any bonded debt is fully paid, levy upon the benefited lands and collect the proportionate share to be borne by the land located in their county of a tax sufficient for the payment of the bonded debt, to be known as the ..... district bond tax; and

(b) until all other expenses or claims are fully paid, levy upon all of the lands of the district and collect the proportionate share to be borne by the land located in their county of a tax sufficient for the payment of the ~~bonded debt~~ other expenses or claims, to be known as the ..... district water and/or sewer tax.

(3) Taxes for the payment of any bonded debt must be levied on the property benefited, as stated by the board of directors in the resolution declaring the necessity for the bonds, and all taxes for other purposes must be levied on all property in the territory comprising the district."

**Section 8.** Section 17-5-305, MCA, is amended to read:

**"17-5-305. Sale of bonds and debentures.** The refunding bonds or debentures which that may be issued under the provisions of this part ~~shall~~ must be sold by the board of examiners in ~~such a manner as that they shall deem for~~ the board considers to be in the best interests of the state, ~~provided that:~~

~~————(1) none thereof shall be sold at less than its par value; and~~

~~————(2) However,~~ if the state ~~shall hold~~ holds any bonds or debentures to be refunded by ~~any such an~~ an issue of refunding bonds or debentures as investments of institutional or other funds, the ~~same~~ original bonds or

debentures may be exchanged for the refunding bonds or debentures if ~~such~~ the exchange be is authorized by the proper state officers or board."

**Section 9.** Section 17-5-803, MCA, is amended to read:

**"17-5-803. Form -- principal and interest -- fiscal agent -- bond registrar and transfer agent -- deposit of proceeds.** (1) Subject to the limitations contained in this part and in the bond act and in the furtherance of each bond act, bonds may be issued by the board upon request of the department. The bonds may be issued in the denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with provisions for conversion or exchange, and for the issuance of temporary bonds bearing interest at a rate or rates, maturing at times not exceeding 30 years from date of issue, subject to redemption at earlier times and prices and on notice, and payable at the office of the fiscal agency of the state as the board determines.

(2) In all other respects, the board is authorized to prescribe the form and terms of the bonds and do whatever is lawful and necessary for their issuance and payment. Action taken by the board under this part must be by a majority vote of its members. The state treasurer shall keep a record of all bonds issued and sold.

(3) The board is authorized to employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under this part.

(4) The board, in its discretion, is authorized to pay all costs of issuance of bonds, including without limitation rating agency fees, printing costs, legal fees, bank or trust company fees, costs to employ persons or firms to assist in the sale of the bonds, line of credit fees and charges, and all other amounts related to the costs of issuing the bonds from amounts available for these purposes in the general fund or from the proceeds of the bonds.

(5) All proceeds of bonds and notes issued under this part to pay the costs of a project must be deposited in the capital projects account or in a separate general obligation bond or note account created in the state special revenue fund established in 17-2-102, except that any premiums, unless used to pay the costs of issuance, and accrued interest received ~~and the proceeds of refunding bonds or notes~~ must be deposited in the debt service account."

**Section 10.** Section 69-7-112, MCA, is amended to read:

**"69-7-112. Conduct of municipal rate hearing.** (1) At the hearing, all persons, associations,

corporations, or companies affected or interested, including the Montana consumer counsel, may be present and represented by counsel. The hearing may be continued from time to time by the governing body of the municipality. At the conclusion of the hearing, all interested parties ~~shall~~ must be allowed to make ~~such~~ arguments ~~as that~~ they may consider proper.

(2) Within 30 days after the hearing, the governing body of the municipality shall issue its decision. The decision is final 10 days after being filed with the municipal clerk. ~~A copy of each revised rate schedule shall be filed with the public service commission upon final decision."~~

**Section 11.** Section 75-5-1113, MCA, is amended to read:

**"75-5-1113. Conditions on loans.** (1) Upon approval of a project by the department, the department of natural resources and conservation may lend amounts on deposit in the revolving fund to a municipality or private person to pay part or all of the cost of a project or to buy or refinance an outstanding obligation of a municipality that was issued to finance a project. The loan is subject to the municipality or private person complying with the following conditions:

(a) meeting requirements of financial capability set by the department of natural resources and conservation to ensure sufficient revenue to operate and maintain the project for its useful life and to repay the loan, including the establishment and maintenance by the municipality of a reserve or revolving fund to secure the payment of principal of and interest on the loan to the extent permitted by the applicable law governing the municipality's obligation;

(b) agreeing to operate and maintain the project properly over its structural and material design life, which may not be less than the term of the loan;

(c) agreeing to maintain proper financial records in accordance with generally accepted accounting standards and agreeing that all records are subject to audit;

(d) meeting the requirements listed in the federal act for projects constructed with funds directly made available by federal capitalization grants;

(e) providing legal assurance that all necessary property titles, easements, and rights-of-way have been obtained to construct, operate, and maintain the project;

(f) submitting an engineering report evaluating the proposed project, including information demonstrating its cost-effectiveness and environmental information necessary for the department and the department of natural

resources and conservation to fulfill their responsibilities under the Montana Environmental Policy Act and rules adopted to implement that act;

(g) complying with plan and specification requirements and other requirements established by the department; and

(h) providing for proper construction inspection and project management.

(2) (a) Each loan, unless prepaid, is payable subject to the limitations of the federal act, with interest paid in annual or more frequent installments, the first of which must be received not more than 1 year after the completion date of the project and, except as provided in subsection (2)(b), the last of which must be received not more than 20 years after the completion date.

(b) If the applicant is a disadvantaged community, as defined by rule, that has qualified for and applied for a loan subsidy, the department may determine that the last installment must be received not more than 30 years after the completion date of the project if the period of the loan does not exceed the expected design life of the project being financed.

(3) (a) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the interest payments on the loan and on other outstanding loans will be sufficient, if paid timely and in full, with other available funds in the revolving fund, including investment income, to enable the state to pay the principal of and interest on the bonds issued pursuant to 75-5-1121.

~~(a)~~(b) The interest rate must be determined as of the date the loan is authorized by the department of natural resources and conservation.

~~(b)~~(c) The rate may include any additional rate that the department of natural resources and conservation considers reasonable or necessary to provide a reserve for the repayment of the loans. The additional rate may be fixed or variable or may be calculated according to a formula, and it may differ from the rate established for any other loan. Once the reserve has been established at a level considered by the department to be reasonable and prudent for the loans outstanding, the department may use excess reserve payments to make grants to aid in the feasibility of projects.

(4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the municipality or private person, in a form prescribed or approved by the department of natural resources and conservation, except that the bond, note, or other evidence must include provisions required by the federal act and must be consistent with the provisions of this part. The bond, note, or other evidence is not required to be identical for all

loans. The department of natural resources and conservation may require that loans to private persons be further secured by a mortgage and other security interests in the project that is being financed or other forms of additional security as considered necessary, including personal guarantees and letters of credit.

(5) As a condition to making a loan, the department of natural resources and conservation, with the concurrence of the department, may impose a reasonable administrative fee that may be paid from the proceeds of the loan or other available funds of the municipality or private person. Administrative fees may be deposited:

(a) in a special administrative costs account that the department of natural resources and conservation may create for that purpose outside the revolving fund provided for in 75-5-1106; or

(b) in the administration account. Money deposited in the administration account established in 75-5-1106 must be used for the payment of administrative costs of the program. Money deposited in the special administration costs account must be used for the payment of administrative costs of the program unless not required for that purpose, in which case the money may be transferred to other funds and accounts in the program."

**Section 12. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
HB 0449, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

HOUSE BILL NO. 449

INTRODUCED BY B. MCCHESENEY

AN ACT GENERALLY REVISING STATE AND LOCAL GOVERNMENT LAWS RELATED TO FINANCE; REVISING NOTICE INFORMATION IN CONNECTION WITH INTENTION TO CREATE A RURAL SPECIAL IMPROVEMENT DISTRICT; REVISING PROTEST PROVISIONS FOR THE CREATION OR EXTENSION OF A RURAL SPECIAL IMPROVEMENT DISTRICT; ALTERING THE TIME FOR CANVASSING OF VOTES FOR WATER AND SEWER DISTRICT ELECTIONS; CLARIFYING CHARGES FOR SERVICES; CLARIFYING THE LEVY OF DISTRICT WATER OR SEWER TAX TO PAY EXPENSES OF OR CLAIMS AGAINST THE DISTRICT; REMOVING CONDITIONS PLACED ON STATE REFUNDING BONDS; CLARIFYING THE ACCOUNTS FOR DEPOSIT OF PROCEEDS OF, AND THE USE OF BOND PREMIUMS ON, STATE GENERAL OBLIGATION BONDS; REMOVING THE REQUIREMENT THAT REVISED MUNICIPAL UTILITY RATE SCHEDULES BE FILED WITH THE PUBLIC SERVICE COMMISSION; EXTENDING THE MAXIMUM TERM OF LOAN UNDER WATER POLLUTION CONTROL STATE REVOLVING FUND PROGRAM IN CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 7-12-2103, 7-12-2105, 7-12-2109, 7-12-2112, 7-13-2256, 7-13-2301, 7-13-2302, 17-5-305, 17-5-803, 69-7-112, AND 75-5-1113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.